

**NOT FOR PUBLICATION**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

BROOKLYN'S BEST, INC.,	:	CIVIL ACTION NO. 09-3566 (MLC)
	:	
Plaintiff,	:	<b>O P I N I O N</b>
	:	
v.	:	
	:	
LINDA ALARIO, et al.,	:	
	:	
Defendants.	:	
_____	:	

**THE CLERK OF THE COURT** has entered default pursuant to Federal Rule of Civil Procedure 55(a) against each defendant in this action concerning, inter alia, violations of federal trademark laws. (See unnumbered dkt. entry between dkt. entry nos. 12 & 13.) The plaintiff now moves pursuant to Federal Rule of Civil Procedure 55(b) for entry of judgment by default. (Dkt. entry no. 13, Notice of Mot.) The plaintiff seeks: (1) entry of judgment in its favor and against the defendants as to liability; (2) to have the defendants restrained and enjoined from, inter alia, infringing its trademark rights; and (3) entry of judgment in its favor and against the defendants as to a monetary award in the amounts of (a) \$5,439.51 in attorneys fees and costs, (b) \$2,000,000 in "statutory damages", and (c) \$350,000 in "punitive damages". (Dkt. entry no. 14, Pl. Proposed Judgment at 1-2.) The defendants have failed to oppose the motion.

**THE COURT** intends to grant the parts of the motion seeking (1) entry of judgment in the plaintiff's favor and against the defendants as to liability, and (2) to have the defendants restrained and enjoined from, inter alia, infringing the plaintiff's trademark rights.

**THE COURT**, however, intends to deny without prejudice the part of the motion seeking entry of judgment in the plaintiff's favor and against the defendants as to the monetary award. The plaintiff is required by the Federal Rules of Civil Procedure and the Local Civil Rules to provide proper legal and factual support in the motion papers for the award it seeks, but has failed to do so. The Court, in its discretion, will not enter judgment as to the monetary award sought at this time, as the plaintiff has not shown that it is entitled to such extraordinary amounts or how it ascertained those amounts. (See, e.g., dkt. entry no. 13, Pl. Certification at 2-3; dkt. entry no. 14, 5-14-10 Pl. Letter.) For good cause appearing, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper  
**MARY L. COOPER**  
United States District Judge

Dated: May 28, 2010